

Before the
Federal Communications Commission
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL
ORIGINAL

RECEIVED

JUN 10 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

**Program to Monitor Impacts of
Universal Support Mechanisms**

)
)
)
)
)

**CC Docket No. 96-45
CCB-IAD File No. 98-101**

MCI REPLY COMMENTS

**Lawrence Fenster
1801 Pennsylvania Ave., NW
Washington, DC 20006
202-887-2180**

June 10, 1998

No. of Copies rec'd 04
List A B C D E

Table of Contents

I.	Introduction	1
II.	Additional, Detailed, Reports are Justified	2
A.	Significant Changes in Universal Support Mechanisms Have Just Been Implemented	2
B.	ILECs Ignore the Scope of Changes and the Degree of Uncertainty Brought About by the Telecommunications Act of 1996	3
III.	Competitive Neutrality Requires Appropriate Monitoring of Universal Service Support Programs	7
IV.	Conclusion	9

I. Introduction

MCI Telecommunications Corporation ("MCI") respectfully submits its Reply Comments in response to comments filed in the above-captioned docket.¹ In its Notice, the Commission requested comments regarding the establishment and modification of monitoring reports that will help evaluate the impact of new universal service support mechanisms, as well as continue data needed to evaluate existing support mechanisms that continue unchanged.

In its Comments, MCI endorsed most of the Commission's proposed modifications and additions. Generally, ILEC customers and state regulators support additional, sufficiently detailed, monitoring reports.² Most ILECs oppose additional, detailed, monitoring reports; propose eliminating monitoring reports; and propose including less information in remaining reports.³

¹Program to Monitor Impacts of Universal Support Mechanisms, CC Docket No. 96-45, CCB-IAD File No. 98-101, April 24, 1998.

²See, e.g., Comments of: MCI; Commonwealth of the Northern Mariana Islands; GSA; EdLiNC; and Arkansas Public Service Commission.

³See, e.g., Comments of: Bell Atlantic; GTE; US West; SBC LECs; and Sprint. Bell South is generally supportive of the Commission's proposals.

II. Additional, Detailed, Reports are Justified

A. Significant Changes in Universal Support Mechanisms Have Just Been Implemented

Congress authorized the Commission to establish mechanisms ensuring that carriers receiving universal service support limit their use of these funds to supported services.⁴ Also, the Commission implemented numerous modifications to universal support mechanisms, in its Universal Service Order,⁵ including:

- defining services, as well as the quality of those services, to be supported by universal service mechanisms;
- expanding carriers eligible to receive universal service support;
- establishing the general features of non-rural high cost support mechanisms;
- providing additional funding of low income support programs;
- adopting new toll limitation, no disconnect for non-payment of toll, and new service deposit policies;
- establishing new support mechanisms for rural health carriers and schools and libraries; and
- implementing a new method of assessing contributions to fund universal support mechanisms.

The scope of the changes made to universal service support mechanisms, along with the uncertain effects of competition, amply justify the additional, detailed, reports the Commission is proposing in this docket.

⁴See, Section 254(e) of the 1996 Act. "A carrier that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."

⁵Report and Order, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Universal Service Order*, May 8, 1997.

B. ILECs Ignore the Scope of Changes and the Degree of Uncertainty Brought About by the Telecommunications Act of 1996

ILECs generally oppose collecting additional data on the grounds that these data requirements lack a compelling public interest.⁶ MCI disagrees, and believes the forces for change put in place by the Commission's implementation of Section 254, 251, and other sections of the 1996 Act, provide more than sufficient justification for the modifications suggested in the Notice. It is ironic that the ILECs, who have been so concerned about maintaining, and even increasing, universal service support in the face of developing competition, generally oppose collecting information that would let the Commission determine the extent and location of competition, the rate impacts of competition, and the success or failure of new universal service mechanisms to maintain affordability in the face of competition. ILECs make a number of specific arguments opposing the Commission's proposals. MCI takes this opportunity to respond to these arguments.

GTE opposes a rate survey on the grounds that a stratified random sample of local exchange carriers is not representative.⁷ However, a stratified random sample is an efficient means of minimizing data collection while maintaining a representative sampling methodology.

ILECs argue that information contained in ARMIS Reports 43-01 and 43-04 are not sufficiently related to the evaluation of universal service issues to justify being included in the Monitoring Report.⁸ MCI disagrees. Congress required the Commission and the States to

⁶See, e.g., Comments of GTE. "...GTE opposes the introduction of such reporting requirements unless the Bureau makes a clear-cut demonstration of a public interest need..." at 3.

⁷GTE at 4.

⁸GTE at 5; Bell Atlantic at 5.

establish “specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service.”⁹ As MCI has argued recently, if universal service support is based on a more disaggregated basis than what is used to set deaveraged loop rates, ILECs will continue to maintain their implicit subsidies and recover additional explicit subsidies.¹⁰ If the converse occurs, explicit subsidies might not be sufficient to maintain the erosion of implicit universal service subsidies. The profitability of both interstate and intrastate services is therefore an important indicator of the sufficiency of universal service mechanisms. These ARMIS reports are very useful for getting a sense of ILEC profitability and should therefore be included in the Commission’s Monitoring Reports.

ILECs oppose including data on state universal service mechanisms in the Commission’s Monitoring Reports, arguing that it would be too complex to collect data for dissimilar state programs.¹¹ MCI disagrees. Data collection, either from the company, or from the state regulator, should be routine. There is no reason to believe that state programs will differ from each other so significantly that the Commission should not report these data, or use them to evaluate the effectiveness of federal support programs. If state programs differ significantly from each other, the Commission may simply report the differences and exercise caution in its use of these data.

⁹Pub. L. No. 104-104, 110 Stat. 61, 149-151, codified at 47 U.S.C. § 254(b)(4).

¹⁰MCI Reply Comments, Proposals to Revise the Methodology of Determining Universal Service Support, CC Docket Nos. 96-45 and 97-160, at 13.

¹¹GTE Comments at 5; US West at 5; SBC LECs at 4.

ILECs generally oppose making study area level data publicly available as part of the Commission's Monitoring Reports.¹² They do not necessarily object to the data collection itself though. GTE supports having the universal service administrator collect data on a support area basis, and making this data available to state administrators and to local exchange carriers so that GTE can determine whether they "...are interested in serving a specific support area," but does not support making this information available to the Commission.¹³ GTE's contention that it would be administratively burdensome to report this data to the Commission, even though the administrator already has collected this data and made it available to the states, is not credible. GTE appears to want the ability to "mine" the most lucrative subsidy areas, but avoid any national scrutiny of this effort.

ILECs oppose having the Commission report the details of individual contracts companies may have negotiated with schools, libraries or rural health clinics, arguing that doing so would reveal proprietary or confidential information.¹⁴ MCI is sensitive to this concern, but does not believe full confidentiality should be expected by the company with the winning bid when the contract is subsidized by telephone ratepayers. The Commission has a responsibility to telephone ratepayers to ensure that the program is meeting its objectives at a minimum expense. For this reason, MCI supports EdliNC's recommendation that the Commission establish a public, on-line, database of company-level information, on the amount of subsidy reimbursement for each

¹²GTE at 5; Sprint at 2; US West at 3.

¹³ GTE at 6. See also, Sprint at 2; Bell Atlantic at 3.

¹⁴GTE at 6, US West at 4.

subsidized product or service provided.¹⁵ More aggregated data on payments received by companies participating in the school, libraries, and rural health clinic programs may be published in the Monitoring Report. MCI also supports EdliNC's recommendations for the Commission to collect and publish "school-level," rather than "district-level," information on discount levels, amount of support received, and applicant size. Having a database of this information will enable the Commission to determine whether the most needy schools are taking advantage of these programs.

Finally, several ILECs oppose including quality of service indicators in its monitoring reports.¹⁶ US West and Bell Atlantic argue that the ARMIS Service Quality and Infrastructure Reports have served their purpose of evaluating whether service quality and innovation would be maintained under the regime of price cap regulation. At the time price cap regulation was implemented, many were concerned that this untried form of regulation could create incentives for ILECs to let service quality decline in order to realize higher profits than had been established under rate of return regulation. With the passing of the 1996 Act, the Commission and the States have embarked on a new form of regulation, a form of regulation that uses forward looking cost estimates to make network elements available to new entrants at economic cost. The same concern regarding innovation and service quality exist today. ILECs seeking to avoid competitive entry are denying new entrants economical and timely access to the network elements necessary

¹⁵EdliNC Comments at 7.

¹⁶US West at 5; SBC LECs at 3.

to provide competitive services using digital subscriber line facilities.¹⁷ In the new regulatory regime, quality of service remains an important area requiring close monitoring. Moreover, Congress authorized the Commission to establish mechanisms ensuring that carriers receiving universal service support limit their use of these funds to supported services.¹⁸ This can only be accomplished if the Commission continues to monitor service quality and innovation of the telecommunications carriers that receive universal service subsidies.

III. Competitive Neutrality Requires Appropriate Monitoring of Universal Service Support Programs

Some ILECs propose making all recipients of universal service support subject to every reporting requirement of the ILECs.¹⁹ For example, US West contends that the "...concept of competitive neutrality requires that all carriers, irrespective of their form of regulation, be subject to the same reporting requirements."²⁰ This proposal ignores the essential point that the Commission's support mechanisms are based on the economic conditions facing *incumbent* local exchange carriers. The Commission used *incumbent* local exchange carrier revenues to determine the appropriate national affordability benchmark. The Commission also used forward looking costs based on prior *incumbent* local exchange carrier location decisions to determine the amount

¹⁷The ILECs contention that the Commission's implementation of Sections 251 and 271 of the 1996 Act hinders their innovative efforts also strongly supports the need to continue monitoring service quality and innovation.

¹⁸See, Section 254(e) of the 1996 Act. "A carrier that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."

¹⁹SBC LECs at 3; Bell Atlantic at 5.

²⁰US West at 2.

of universal service support eligible carriers may receive.²¹ Making the economic conditions facing the ILECs, and not their competitors, the basis for determining universal service support has resulted in estimates of explicit universal service subsidies that exceed existing federal subsidy flows. Given the lack of any evidence that competition is eroding implicit universal service subsidies, it is imperative that the Commission retain its focus on ILEC economic outcomes.

MCI contends that the true threat to competitive neutrality will come from insufficient monitoring of the need, size, and distribution of universal service support. Many of the ILECs have avidly argued that the purpose of universal service support is to make all of their subsidies explicit, not just implicit subsidies that support universal service.²² The Commission must ensure it has the tools necessary to establish sufficient, and not excessive, support levels. Otherwise, ILECs will be recovering subsidies through both implicit and explicit means, and using this revenue windfall to subsidize their entry into long distance, and to impose additional costs on new entrants seeking to provide competing local telephone service.

²¹Throughout the Commission's proxy cost model deliberations, ILECs opposed basing forward looking cost estimates on the most efficient network that could be built to serve an area. Instead, they favored, and the Commission adopted, an approach that retained the existing wire center locations of the *incumbent* ILECs.

²²See GTE, Bell South, etc in 97-160.

IV. Conclusion

For the above-mentioned reasons, MCI encourages the Commission to adopt the MCI's recommendations discussed in these Reply Comments.

Respectfully submitted,
MCI TELECOMMUNICATIONS CORPORATION

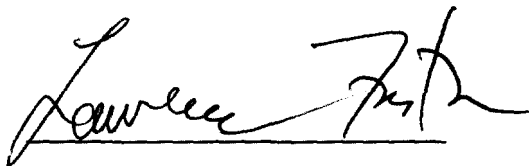
A handwritten signature in black ink, appearing to read "Lawrence Fenster", written in a cursive style.

Lawrence Fenster
MCI Telecommunications Corporation
1801 Pennsylvania Ave., NW
Washington, DC 20006
(202) 887-2180

June 10, 1998

STATEMENT OF VERIFICATION

I have read the foregoing and, to the best of my knowledge, information and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on June 10, 1998.

A handwritten signature in black ink, appearing to read "Lawrence Fenster", written over a horizontal line.

Lawrence Fenster
1801 Pennsylvania Ave., N.W.
Washington, D.C. 20006
(202) 887-2180

CERTIFICATE OF SERVICE

I, Barbara Nowlin, do hereby certify that a copy of the foregoing **Reply Comments** has been sent by United States first class mail, postage prepaid, hand delivery, to the following parties on this 10th day, June, 1998.

Peyton Wynns*
Chief
Industry Analysis Division
2033 St., N.W.
Washington, DC 20554

Thomas Beers*
Deputy Chief
Industry Analysis Division
2033 M St., N.W.
Washington, DC 20554

Terry Conway (2 copies)*
Industry Analysis Division
2033 M St., N.W.
Washington, DC 20554

Scott Bergmann*
Industry Analysis Division
2033 M St., N.W.
Washington, DC 20554

Alex Belinfante*
Industry Analysis Division
2033 M St., N.W.
Washington, DC 20554

Lisa Gelb*
Chief
Accounting Policy Division
1919 M St., N.W.
Washington, DC 20554

Emily Hoffnar*
Assistant Chief
Accounting Policy Division
1919 M St., N.W.
Washington, DC 20554

Robert B. McKenna
John L. Traylor
1020 19th Street, N.W.
Suite 700
Washington, DC 20036

Lawrence W. Katz
1320 North Court House Road
8th Floor
Arlington, VA 22201

Robert M. Lynch
Southwestern Bell Telephone Co.
Pacific Bell
Nevada Bell
One Bell Plaza, Rm. 3703
Dallas, TX 75202

Gail L. Polivy
GTE Service Corporation
1850 M Street, NW, Suite 1200
Washington, DC 20036

Suzanne McCormick
Research & Policy Division
Arkansas Public Service Commission
1000 Center, P.O. Box 400
Little Rock, AR 72203-0400

Michael J. Ettner
Senior Assistant General Counsel
Personal Property Division
General Services Administration
1800 F Street, NW, Rm. 4002
Washington, DC 20405


Thomas K. Crowe
Law Offices of Thomas K. Crowe
2300 M Street, N.W., Suite 800
Washington, DC 20037

Carol Henderson
American Library Association
(on behalf of EdLiNC)
1301 Pennsylvania Ave., NW, Ste. 403
Washington, DC 20004

M. Robert Sutherland
BellSouth Corporation
1155 Peachtree St., N.E.
Suite 1700
Atlanta, GA 30309-3610

Jay C. Keithley
Sprint Local Telephone Companies
1850 M Street, NW, 11th Fl.
Washington, DC 20036-5807

International Transcription Service*
2100 M Street, NW
Suite 140
Washington, DC 20037

A handwritten signature in cursive script, reading "Barbara Nowlin". The signature is written in dark ink and is positioned above a horizontal line.

Barbara Nowlin
June 10, 1998